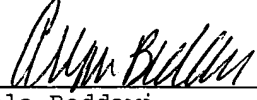




PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 7, 2005.


Angela Beddawi

Appl No. : 10/027,700 Confirmation No. 4165
Applicant : Mark Skiba, et al.
Filed : December 20, 2001
Title : SYSTEMS AND METHODS FOR ELECTRONIC DATA STORAGE
MANAGEMENT
TC/A.U. : 2186
Examiner : Tuan V. Thai
Docket No. : 47612/LTR/G319
Customer No. : 23363

PETITION FOR PRE-APPEAL CONFERENCE

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Post Office Box 7068
Pasadena, CA 91109-7068
July 7, 2005

Commissioner:

All the claims, namely, claims 9 to 13, 20, and 21, were rejected in the Office action mailed April 8, 2005. Claims 20 and 21 have been cancelled to put the application in better condition for appeal and a Notice of Appeal has been filed for review of the examiner's rejection of claims 9 to 13, which have been twice rejected.

Applicant hereby requests a pre-appeal conference in the above-identified application. The applicable fee in the amount of \$130 is enclosed. The Commissioner is hereby authorized to charge any deficiency or credit any overpayment with regard to

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this paper to Deposit Account No. 03-1728. **Please show our docket number with any charge or credit to our Deposit Account.**

It is submitted that the issues on this appeal are straightforward and the Examiner's final rejection is clear error that would be reversed on appeal. Accordingly, the pending claims should be allowed now to save the time and expense of an appeal.

Independent claim 9 and dependent claims 10 to 13 have been twice rejected as anticipated by Uemura et al patent 5,720,026 under 35 USC 102(e). But Uemura et al does not disclose storing a copy of the updated file and storing the differences in such copy each time one of files is updated. (See attached claim 9 with highlighting.)

The conventional timing for file backup is at regular intervals independent of when the files are updated. In contrast, all the claims require that backup be executed each time a file is updated. In other words, backup is seamless in the sense that files are not updated between backups.

In paragraph 5 of the outstanding Office action, the examiner relies upon two passages in Uemura for his rejection under 35 USC 102(e). Nothing in Uemura including the two passages the examiner relies upon states that backup occurs each time a file is updated. Further, Uemura's statements, although possibly ambiguous, are completely consistent with a timed backup at regular intervals.

The examiner seems to be arguing that Uemura's teaching of incremental backup anticipates the rejected claims. But,


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applicant is not relying upon incremental backup for patentability so the examiner's argument is irrelevant.

From the forgoing, it is clear that the rejected claims are not anticipated by Uemura under 35 USC 102(e). Accordingly, withdrawal of this rejection and allowance of all the claims are requested.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By



LeRoy T. Rahn
Reg. No. 20,356
626/795-9900

LTR/amb

Enclosure: check (\$130) and copy of claims 9-13

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Reply to Office action of October 19, 2004

data located on a plurality of physical storage volumes, comprising the steps:

identifying the physical storage locations of a particular logical file of electronic data stored on a plurality of physical storage volumes;

communicating said electronic data storage locations to a computer operating system;

accessing said electronic data physically located on a plurality of storage volumes by said operating system as if the data appeared on a single volume.

9. (Previously Presented) A method for backing up data stored in files as the data is updated, the method comprising:

updating one of the files;

temporarily storing a copy of the updated file (mirroring);

comparing the copy of the updated file with the file prior to updating;

storing the differences in the copy of the updated file (versioning); and

repeating the foregoing steps each time one of the files is updated.

10. (Previously Presented) The method of claim 9, additionally comprising restoring one of the files to a previous condition by:

temporarily storing a copy of the current version of the file being restored;

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applying the stored differences to the stored copy of the current version to produce a copy of an earlier version of the file being restored, and

repeating the two recited steps until a desired version of the file is produced.

11. (Previously Presented) The method of claim 10, in which the temporarily stored copy is stored until the next time one of the files is updated.

12. (Previously Presented) The method of claim 9, in which the temporarily stored copy is stored until the next time one of the files is updated.

13. (Previously Presented) The method of claim 9, additionally comprising restoring one of the files to a previous condition by:

applying the stored differences to the updated file to produce a copy of a later version of the file being restored; and

repeating the recited step until a desired version of the file is produced.

14-19. (Canceled)

20. (New) A method for backing up data files after an original version of a file is stored in a first register, the method comprising the steps of: